



MEMORANDUM

DATE: October 23, 2020

TO: Honorable Mayor and City Council Members

FROM: Scott Clark, Director, Planning & Development Services

CC: Michael Ortega, Albert Elias, Mike Rankin

SUBJECT: Temporary measures to support social distancing at medical marijuana dispensaries

I am writing to follow-up on the September 9, 2020 study session discussion regarding Unified Development Code (UDC) regulations of medical and adult use marijuana dispensaries.

At this meeting, Mayor and Council discussed temporary measures that medical marijuana dispensaries may be allowed to take in order to protect their customers and allow for increased social distancing as advised during the ongoing COVID-19 pandemic. As a reminder, the following practices are currently permitted and support social distancing:

- Curbside Pickup / Delivery – Patients may order online or call in advance to place an order and pick up their medicine curbside at dispensaries. Dispensaries are allowed to designate a portion of their parking spots or other outdoor areas as a pick-up zone, so long as this does not affect circulation, to allow for expeditious and efficient curbside delivery of medicine to patients.
- Home Delivery – Per the Unified Development Code, Section 4.9.9.E.1.h, dispensaries may offer home delivery to their customers so long as they comply with all other applicable state laws and regulations.
- Expanded Lobby Size – To clarify, there is no maximum lobby size specified in our zoning code, so dispensaries are currently allowed to expand their lobby area, if they choose to do so, within the parameters of the overall maximum dispensary size of 4,000 square feet.

After the September meeting, Planning and Development Services (PDSD) staff reviewed potential options for temporary measures which might further support dispensaries and their patients, in addition to these existing regulations. To get further input, on October 19, 2020, staff held a stakeholder meeting which included local dispensary owners and a representative of the Arizona Dispensaries Association.

Based on stakeholder feedback and our review, staff have identified two potential temporary measures to assist dispensaries in maintaining safe environments for their patients.

1. Temporary utilization of unused space for expanded lobby – There is the potential to temporarily use additional building space currently unused by the dispensary as an auxiliary lobby or waiting area. Allowed improvements would be limited to those that are temporary and not permanent. These should be non-structural changes and limited to tenant improvements. Should a dispensary elect to do this, they would be required to submit a building permit application for review to ensure the space meets relevant health and safety standards including but not limited to temperature control, ventilation, emergency exits, and other aspects of building, fire and zoning codes. This expanded lobby would not count toward the current size restriction for medical marijuana dispensaries (4,000sf).
2. Temporary utilization of an existing drive through – While drive throughs are currently prohibited in our zoning code for medical marijuana dispensaries (UDC 4.9.9.E.1.f), a temporary measure could allow dispensaries which already have a drive through window (from previous use of the building by a drive through restaurant or bank, for example) to utilize the window on a temporary basis, so long as they are able to meet all necessary traffic and circulation standards, such as stacking and queueing. This would require site plan review by PDSD to ensure that it does not cause negative impacts on surrounding streets or neighborhoods (such as the lines of cars that can be seen overflowing from popular coffee shops and other drive throughs).

These measures are intended to be temporary steps to help address COVID related issues, and not permanent changes to the building or site. In order to ensure that these measures do not compromise life safety and do not affect off-site traffic patterns or cause pedestrian safety issues on-site or off-site, staff review on a site-by-site basis would be required. If granted, approval of either of these temporary measures would not serve as a permanent approval or guarantee of future approval and would not eliminate the possibility of future code enforcement action.

If Mayor and Council wish to pursue these temporary measures, they may be enacted through Emergency Proclamation. PDSD and the Attorney's Office can assist in drafting language for such a Proclamation.

Finally, should the Arizona Smart and Safe Act be approved by voters in November, PDSD will lead a full public process to address permanent changes to the zoning regulations that affect both medical and adult use dispensaries, as initiated by Mayor and Council on September 9. PDSD staff will present an update on this process at the November 17 Mayor and Council study session, and will be available to discuss these temporary measures as well.